

1 Gregg McLean Adam, No. 203436
Jonathan Yank, No. 215495
2 Gonzalo C. Martinez, No. 231724
Amber L. West, No. 245002

3 **CARROLL, BURDICK & McDONOUGH LLP**

Attorneys at Law
4 44 Montgomery Street, Suite 400
San Francisco, CA 94104
5 Telephone: 415.989.5900
Facsimile: 415.989.0932
6 Email: gadam@cbmlaw.com

7 Attorneys for Plaintiff and Cross-Defendant
San Jose Police Officers' Association

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SANTA CLARA**

10
11 **SAN JOSE POLICE OFFICERS'**
12 **ASSOCIATION,**

13 **Plaintiff,**

14 **v.**

15 **CITY OF SAN JOSE, BOARD OF**
16 **ADMINISTRATION FOR POLICE**
17 **AND FIRE DEPARTMENT**
RETIREMENT PLAN OF CITY OF
SAN JOSE, and DOES 1-10, inclusive,

18 **Defendants.**

19 **AND RELATED CROSS-COMPLAINT**
20 **AND CONSOLIDATED ACTIONS**
21

No. 1-12-CV-225926
(and Consolidated Actions
1-12-CV-225928, 1-12-CV-226570,
1-12-CV-226574, 1-12-CV-227864,
and 1-12-CV-233660)

**DECLARATION OF MICHAEL J. FEHR IN
SUPPORT OF PLAINTIFF SAN JOSE POLICE
OFFICERS' ASSOCIATION'S OPPOSITION
TO MOTION FOR SUMMARY
ADJUDICATION**

Date: June 7, 2013
Time: 9:00 a.m.
Place: Dept. 2
Judge: Hon. Patricia M. Lucas

Complaint Filed: June 16, 2012
Trial Date: July 22, 2013

1 I, Michael J. Fehr, declare and say:

2 1. I am a retired employee of the City of San Jose. I worked as a Police
3 Officer for the City of San Jose for over 32 years from September 11, 1972 to January 29,
4 2005. I am a former member and officer of the SAN JOSE POLICE OFFICERS'
5 ASSOCIATION ("SJPOA"). As a result of my employment with the City of San Jose and
6 my subsequent retirement in 2005, I am familiar with the facts in this matter, as well as
7 those set forth in this Declaration. If called upon as a witness, I could and would testify
8 competently to these facts.

9 2. I submit this declaration in support of the SJPOA's Opposition to City of
10 San Jose's Motion for Summary Adjudication ("MSA").

11 3. At the time I retired and throughout my career with the San Jose Police
12 Department, the City represented to me that I would receive premium contributions at the
13 same level as the City contributes for the lowest cost plan offered to active employees in
14 the same job classification from which I retired, i.e., police officer. I chose a health plan
15 with higher premiums than the lowest cost plan available to active police officers. The
16 City contributed toward my health plan premium the amount that it pays for the premium
17 for the lowest cost plan available to active police officers.

18 4. After the City promised when I retired that I would receive premium
19 contributions at the same level as the City contributes for active police officers, the City
20 made no further representation until just prior to January 1, 2013, when the City informed
21 me it would be imposing a significant cost burden on me to pay monthly premiums, even
22 though I did not change my healthcare plan.

23 5. Before the City imposed this new burden, my monthly payment toward
24 my health plan premium was \$569.82. After the City imposed the burden, that amount
25 increased to \$801.12 monthly.
26
27
28

1 I declare under penalty of perjury under the laws of the State of California that
2 the foregoing is true and correct and that this declaration is executed this 17TH day of
3 April, 2013, SAN JOSE, California.
4

5 Michael J. Fehr
6 Michael J. Fehr
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28